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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,768	01/10/2005	Jean Fernand Armand LaCrampe	JAB-1701USWO	2430

27777 7590 09/13/2005
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EXAMINER

BALASUBRAMANIAN, VENKATARAMAN

ART UNIT PAPER NUMBER

1624

DATE MAILED: 09/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/520,768	LACRAMPE ET AL.	
	Examiner	Art Unit	
	Venkataraman Balasubramanian	1624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 12-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

The preliminary amendment, which included cancellation of claims 10-11, addition of new claims 13-23 and amendment to claims 4, 6-9, filed on 1/10/2005, is made of record.

Claims 1-9 and 12-23 are now pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 and 12-23 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Any claim not specifically rejected is rejected as it is dependent on a cancelled claim and shares the same indefiniteness.

1. Recitation of "the N-oxides forms, the pharmaceutically acceptable addition salts and stereochemically isomeric forms thereof" in claim 1 renders claim 1 and its dependent claims 2-9 and 12-23 indefinite as it is not clear whether claim 1 is compound claim or a composition claim containing the above said forms and salts. Not Markush recitation should be in alternate and in singular.
2. Regarding claims 2-4, 6, 7 and 13-23, the term "preferably" which appears at various places in the definition of variable groups renders these claims indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

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3. Claims 2-7 and 132-3 are indefinite as the recite variation in substituents in the phenyl ring but do not recite the value of m and n. It is not clear how to apply prior art to these claims. For the present it is assumed that m and n can also be zero.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 and 13-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Nagamatsu et al. JP 09255681.

See entire document especially pages 4, 5 and 6, Table 2, 3, 4 and 5 for various compounds made.

Claims 1-9 and 13-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Nagamatsu et al. JP 07041479.

See entire document especially pages 5 through 8 6 for various compounds made.

Claims 1-3, 5-9, 15, 16, 18-21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Nagamatsu et al. Journal of Chemical Society, Perkins Transactions I, 2: 130-137, 2001, CA 134: 311011, 2001..CAPLUS Abstract provided..

See several N-alkyl compounds shown in the CAPLUS Abstract.

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Claims 1-3, 5-9, 15, 16, 18-21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Nagamatsu et al. Chemical and Pharmaceutical Bulletin 41(2): 362-368, 1993, CA 119:49351, 1993. CAPLUS Abstract provided..

See several N-alkyl compounds shown in the CAPLUS Abstract.

Claims 1-3, 5-9, 12, 15, 16, 18-21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoneda et al. Journal of Chemical Society, Perkins Transactions I, 22: 2398=2402, 1976, CA 86: 139991, 1977. CAPLUS Abstract provided..

See several N-alkyl compounds shown in the CAPLUS Abstract.

Claims 1-3, 5-9, 12, 15, 16, 18-21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoneda et al. Chemical and Pharmaceutical Bulletin 23(9): 2001-2009, 1975, CA 84:4913, 1976. CAPLUS Abstract provided..

See several N-alkyl compounds shown in the CAPLUS Abstract.

Claims 1-3, 5-9, 12, 15, 16, 18-21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoneda et al. Synthesis 3: 177-179, 1975, CA 83:43279, 1975. CAPLUS Abstract provided..

See several N-alkyl compounds shown in the CAPLUS Abstract.

Conclusion

Any inquiry concerning this communication from the examiner should be addressed to Venkataraman Balasubramanian (Bala) whose telephone number is (571) 272-0662. The examiner can normally be reached on Monday through Thursday from 8.00 AM to 6.00 PM. The Acting Supervisory Patent Examiner (SPE) of the art unit 1624 is James O. Wilson, whose telephone number is 571-272-0661.

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The fax phone number for the organization where this application or proceeding is assigned (571) 273-8300. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAG. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-2 17-9197 (toll-free).

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9/4/2005